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July 16, 1996

EX PARTE

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

RE: Interconnection Between Local Exchange Carriers and Commercial
Mobile Radio Service Providers (CC Docket No. 95-185)
**Commission Initiates Proceeding to Implement Interconnection Provisions of
Telecommunications Act of 1996 (CC Docket No. 96-98)**

Dear Mr. Caton:

The attached material was distributed to Michele Farquhar. Please associate this material with the above-referenced proceeding.

Two copies of this notice are being submitted to the Secretary in accordance with Section 1.1206(a)(1) of the Commission's Rules.

Please stamp and return the provided copy to confirm your receipt. Please contact me at 202-293-4960 should you have any questions or require additional information concerning this matter.

Sincerely,

Kathleen Q. Abernathy

Attachment

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July 16, 1996

EX PARTE

Michele Farquhar
Chief, Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, NW, Room 5002
Washington, DC 20554

RE: Interconnection Between Local Exchange Carriers and Commercial
Mobile Radio Service Providers (CC Docket No. 95-185) and
Commission Initiates Proceeding to Implement Interconnection Provisions of
Telecommunications Act of 1996 (CC Docket No. 96-98)

Dear Michele:

In response to several questions from FCC staff regarding the need for immediate, interim relief, AirTouch has prepared the attached information. We demonstrate that seeking interconnection relief pursuant to Section 252 of the Communications Act triggers a long and protracted review process. The adoption of the AirTouch interim relief proposal ensures that any delays in the negotiation process do not harm CMRS providers.

If you have any questions regarding our analysis, do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "K. Abernathy", written over a horizontal line.

Kathleen Q. Abernathy

Attachment

cc:	Rosalind Allen	Dan Gonzalez
	Rudy Baca	Daniel Grosh
	Lauren (Pete) Belvin	Regina Keeney
	Karen Brinkmann	Richard Metzger
	James Casserly	John Nakahata
	Jackie Chorney	David Nall
	James Coltharp	Gregory Rosston
	Barbara Esbin	Suzanne Toller

AirTouch Communications
CC Docket Nos. 95-185 and 96-98

The interconnection obligations prescribed in Section 252, if applied to LEC-CMRS interconnection, will eventually provide relief for CMRS providers, including the right to obtain interconnection on the same terms and conditions as other telecommunications carriers (Section 252(i)). But any notion that such relief will be forthcoming anytime in the near future is simply illusory.

The Section 252 process begins with a request for interconnection, which commences a “voluntary” negotiation period lasting 135 to 160 days (Sections 252(a)(1) and (b)(1)). Notably, the LECs may enter into agreements during this period “without regard to the standards set forth in subsections (b) and (c) of Section 251.” These subsections include such requirements as reciprocal compensation (Section 251(b)(5)) and good faith negotiation (Section 251(c)(2)). The LECs are thus, arguably, given broad latitude to avoid interconnection obligations of critical importance to the CMRS industry for the first five to six months of the process.

The record in this proceeding documents that the LECs are taking full advantage of this flexibility. While certain competitive local exchange carriers have been able to negotiate favorable interconnection agreements, CMRS providers are still often confronted by LECs unwilling to include the concept of reciprocal compensation in the negotiation process. As a practical matter, the 135-160 day voluntary negotiation period translates into five to six months of inaction by the LECs. Although carriers may request the State PUC to serve as mediator during negotiations, Section 252(a)(2), this right provides no real tangible relief during the

voluntary period since the LECs are under no compulsion to comply with Sections 251(b) and (c).

Moreover, the delays do not end here. Any interconnection agreement reached through negotiation or arbitration must be submitted for State approval (Section 252(e)(1)). The States are given 90 days to either approve or reject any agreement adopted pursuant to negotiation (Section 252(e)(4)). As a practical matter, then, LECs can drag out the negotiation process for over five months and then enter into an agreement with the knowledge that State approval may not be forthcoming for an additional three months.

If an agreement has not been reached by the end of the voluntary negotiation period, a telecommunications carrier may “petition a State commission to arbitrate any open issues.” Section 252(b)(1). LECs are given twenty-five days in which to respond to any such petition (Section 252(b)(3)), and the states must render a decision “not later than 9 months after the date on which the local exchange carrier received the request under this section” (Section 252(b)(4)(C)). Agreements reached through the arbitration process must be rejected or approved by the State within 30 days (Section 252(e)(4)). The lengthy procedures are made even more complex by the fact that CMRS providers such as AirTouch must deal separately with numerous State PUCs, each of which may have a different approach regarding these matters.

Even the nine-month deadline prescribed in Section 252(b)(4)(C) does not necessarily end the potential for delay. If a particular State does not carry out its responsibilities under this section, the FCC must preempt the State within 90 days of being notified of the problem and assume the State’s role. The FCC is then given an unspecified amount of time to resolve the dispute.

In short, any suggestion that the Section 252 procedures will provide interconnection relief for CMRS providers anytime soon is simply baseless. As described above, the requirements prescribed in Section 252 offer CMRS providers no realistic expectation of obtaining interconnection from LECs under reasonable terms and conditions for approximately nine months or more. CMRS providers' anticipation of lengthy delays is further validated by the widespread pattern of delay in which the LECs are currently engaged, as documented in the record in this proceeding.

These delays are primarily attributable to the LECs' obvious desire to maintain, for as long as possible, the current inequitable interconnection rate scheme. Beyond this, however, cellular carriers in particular should expect a protracted interconnection negotiation process for an additional reason. Specifically, Section 271(c)(1)(A) requires LECs to enter into an interconnection agreement with at least one competing provider of telephone exchange service as a prerequisite to obtaining approval to enter the interLATA market in-region. Since cellular services are expressly not considered telephone exchange services under this provision, LECs will have strong incentive to put negotiations with such entities on the back burner while they pursue discussions with entities that meet the definition.

All of these factors dictate that near-term relief will become a reality only if the FCC steps in, as it is authorized to do under Section 251, and adopts interim measures that force the LECs' hands. Absent such interim relief, it must be anticipated that CMRS providers will be required to pay excessive interconnection rates for at least another nine months.